MONTANA LEGISLATIVE HISTORY

Chapter 482 19 83

Bill H 331 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	1/26	✓ C	Hearing Date(s)	3/2	✓ C
	1/27	✓ C		3/16	✓ C
		C		3/19	✓ C
		C			C
Date Out	1/27	✓ C		3/19	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/01/83, BE CONCURRED IN AYES: 83; NAYS: 0
3RD READING: 04/04/83, BE CONCURRED IN AYES: 95; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/13/83
SIGNED: 04/18/83, CHAPTER 545

HB 330 -- BARDANOUVE -- REQUIRING THE DEPARTMENT OF LABOR AND INDUSTRY TO DEFER TO THE BOARD OF PERSONNEL APPEALS OR THE NATIONAL LABOR RELATIONS BOARD FOR A DETERMINATION OF WHETHER THE EMPLOYER OF AN APPLICANT FOR UNEMPLOYMENT BENEFITS COMMITTED AN UNFAIR LABOR PRACTICE RESULTING IN A LABOR DISPUTE WORK STOPPAGE AND THE APPLICANT'S UNEMPLOYMENT FOR PURPOSES OF DECIDING WHETHER THE APPLICANT IS ENTITLED TO BENEFITS; AMENDING SECTION ....
BY REQUEST OF: THE PERSONNEL AND LABOR RELATIONS STUDY COMMISSION

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS: 01/18/83
HEARING: 1/26/83
REPORT: 02/01/83, DO NOT PASS
BILL KILLED: 02/02/83

HB 331 -- PISTORIA -- TO ESTABLISH THE OFFENSE OF CRIMINAL POSSESSION OF A TOXIC SUBSTANCE.

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/18/83
HEARING: 1/26/83
REPORT: 01/27/83, DO PASS, AS AMENDED
2ND READING: 01/29/83, DO PASS AYES: 87; NAYS: 2
3RD READING: 02/01/83, DO PASS AYES: 95; NAYS: 4

TRANSMITTED TO SENATE: 2/1/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/02/83
HEARING: 3/2/83
REPORT: 03/19/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/22/83 AYES: 49; NAYS: 0
3RD READING: 03/24/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 03/24/83
2ND READING: 03/31/83, BE CONCURRED IN AYES: 83; NAYS: 0
3RD READING: 04/01/83, BE CONCURRED IN AYES: 85; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/11/83
SIGNED: 04/14/83, CHAPTER 482

HB 332 -- ROUSH, HARPER, G. JACOBSEN, ET AL -- TO REMOVE THE STATE'S LIABILITY FOR THE COST OF A MENTAL EVALUATION OR COMMITMENT OF A CRIMINAL DEFENDANT AND THE RELATED TRANSPORTATION COSTS IF THE EVALUATION OR COMMITMENT IS DONE AT A FACILITY OTHER THAN A STATE INSTITUTION; AMENDING SECTION ....
BY REQUEST OF: THE DEPARTMENT OF INSTITUTIONS

INTRODUCED: 01/18/83
REFERRED TO COMMITTEE ON JUDICIARY: 01/18/83
HEARING: 1/28/83
REPORT: 01/31/83, DO NOT PASS
BILL KILLED: 02/01/83

House BILL NO. 331

INTRODUCED BY Paul D. Pistoria

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE OFFENSE OF CRIMINAL POSSESSION OF A TOXIC SUBSTANCE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Criminal possession of toxic substances -- penalty. (1) A person commits the offense of criminal possession of a toxic substance if he inhales or ingests or possesses with the purpose to inhale or ingest, for the purpose of altering his mental or physical state, any substance with toxic effects that is not manufactured for human consumption or inhalation, including but not limited to glue, fingernail polish, paint and paint thinners, petroleum products, aerosol propellants, and chemical solvents.

(2) A person convicted of criminal possession of a toxic substance shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed $1,000, or both.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 45, chapter 9, part 1, and the provisions of Title 45 apply to section 1.

-End-

INTRODUCED BILL

HB-331

STATUS SHEET

JUDICIARY COMMITTEE

48 Legislature

..l No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
323	Providing municipal court judges & city judges be added to the group of incumbent judicial officers who are sbj. to approval by voters when no election contest.	1/18/83	Rep. Veleber	1/27/83	Do Pass	1/27/83
327	To change the rights of and restrictions on a merchant detaining a suspected shop-lifter.	1/18/83	Rep. Bergene	1/28/83	Do Pass as Amended	1/31/83
331	To establish the offense of criminal possession of a toxic substance.	1/18/83	Rep. Pistoria	1/26/83	Do Pass as Amended	1/27/83
332	Removing the state's liability for the cost of a mental evaluation or commitment of a criminal defendant & related transportation costs.	1/18/83	Rep. Roush	1/28/83	Do Not Pass	1/31/83
453	Awarding litigation costs & attorney fees to a health care provider prevailing in a civil malpractice action providing injury not caused by malprac-tice of the provider.	1/22/83	Rep. S. Hansen	1/31/83	Tabled - 1/31/83	
347	Revising the Small Tract Financing Act of MT by increas-ing the limit on trustees' & attorneys' fees and deleting unnecessary recording lang.	1/19/83	Rep. Donaldson	1/24/83	Do Pass as Amended	1/24/83

rm CS-32
1

MINUTES OF THE JUDICIARY COMMITTEE
January 26, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown in Room 224A of the Capitol at 8:00 a.m. All members were present except REP. SEIFERT, who was excused. Brenda Desmond, Legislative Council was present.

HOUSE BILL 234

REP. YARDLEY, sponsor, stated this bill provides that trustees of school districts are individually immune from liability for exemplary and punitive damages when acting in their official capacity.

REP. YARDLEY stated that exemplary and punitive damages included damages for fraud and malicious acts while within the scope of their employment.

CHIP ERDMANN, Montana School Board Association, was in favor of the bill. A similar bill last session was defeated in the Senate although it passed the House. EXHIBIT A is a witness statement submitted by ERDMANN outlining his comments.

TAMMY HALL, School District 7, was in favor of the bill. EXHIBIT B. HALL stated as a parent, business person and school board member she is interested in the education of the school children. As a school board member, she must make many controversial decisions. It is not fair that school board members who put in thousands of hours without being compensated for their time are subject to lawsuits. When the legislature exempted school boards from damages they never intended to place the burden on the school board members. Solving this problem is crucial for local control over schools. If the bill does not pass some people will not run for school board. The only people who will run will be people who do not have any property or assets that can be taken away.

RONALD MATTSON, School District 1, was in favor of the bill as a school trustee. EXHIBIT C.

STERLIN NIELSEN, School District 74, was in agreement with the previous remarks. He stated his area is a small community with people moving in and out frequently. A number of trustees have moved; a new member must be appointed to the board. It is hard to find someone willing to be appointed to the board because they know they can be sued.

ALICE TULLY, Montana School Board Association, was in favor of the bill.

There were no further opponents.

In closing REP. VINCENT stated the real issue is fairness. The problems in the system should not fall on the consumer but they shouldn't fall on the materialman either. If we accept that then the question is who is going to bear the burden. If the contractor shows the consumer a waiver stating the situation, then the consumer can decide whether he wants the work done by that particular contractor.

REP. VINCENT urged the committee to investigate the possibility of some type of notification that the general public would understand. Then, let the consumer beware. EXHIBIT U was given to the committee.

CHAIRMAN BROWN stated a subcommittee would be assigned to study the problem and make possible recommendations.

The hearing on the bill closed.

HOUSE BILL 331

REP. PISTORIA, sponsor, stated House Bill 331 would establish the offense of criminal possession of a toxic substance. REP. PISTORIA gave the committee EXHIBIT V, which is the California paint sniffing law. REP. PISTORIA felt the bill should be amended as in EXHIBIT W to comply closer to the California statute. He felt this statute does a better job than the proposed Montana law.

Paint and hardware stores have begun placing spray paint and paint thinners behind the counters. The Cascade county attorney feels a law in this area is needed. The law enforcement in Great Falls is also in favor of the bill.

GLADYS VANCE was in support of the bill. VANCE gave the committee EXHIBITS X and Y concerning birth anomalies of the fetus related to parents chemical dependence; and a letter concerning the problem on the reservations. EXHIBIT Y also details arrests that have been made for paint sniffing in Great Falls.

In Great Falls there is an abandoned warehouse known as the "Paint Palace" in which chemical abusers go to sniff substances. The Fire Department has closed the building for potential fire hazard. A policeman was shot there in 1976 investigating two paint sniffers.

VANCE hoped this bill would eliminate the problem. It is most prevalent among lower income families.

There were no further proponents.

There were no opponents.

The committee did not ask any questions.

The hearing on House Bill 331 closed.

The meeting adjourned at 12:20 p.m.

Dave Brown
DAVE BROWN, Chairman

Maureen K. Richardson
Maureen Richardson, Secretary

State of California
Department of Justice
George Deukmejian
(PRONOUNCED DUKE-MAY-GIN)
Attorney General

555 CAPITOL MALL, SUITE 350
SACRAMENTO 95814
(916) 445-9555

HB 331
Exhibit V
1/26/83

Rec'd - Mon - Dec. 20th, 1982

Mr. Paul Pistoria
State Representative
Montana State House of Representatives
2421 Central Ave.
Great Falls, Montana 59401

December 17, 1982

USE FOR
~~Exh~~
H.B. 331

Dear Mr. Pistoria:

This is in response to your recent letter requesting information.

Enclosed is a copy of penal Code section 381 which appears to be the statute you request.

We hope to have been of assistance to you in this matter.

Very truly yours,

George Deukmejian
Attorney General

Jon P. Lippsmeyer
Public Inquiry Unit

JPL:pfs
Enclosure

components as beads, tiles, tiffany glass, ceramics, clay, or other craft-related components.
(Added by Stats.1979, c. 1165, § 1. Amended by Stats.1980, c. 1011, § 1.)

Former § 380 was repealed by Stats.1978, c. 438, § 1.

§ 381. Toluene and substances with similar toxic qualities; possession and under the influence

(a) Any person who possesses toluene or any substance or material containing toluene, including, but not limited to, glue, cement, dope, paint thinner, paint and any combination of hydrocarbons, either alone or in combination with any substance or material including but not limited to paint, paint thinner, shellac thinner, and solvents, with the intent to breathe, inhale or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of toluene or any material containing toluene, or any combination of hydrocarbons is guilty of a misdemeanor.

(b) Any person who possesses any substance or material, which the State Department of Health Services has determined by regulations adopted pursuant to the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) has toxic qualities similar to toluene, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who is under the influence of such substance or material is guilty of a misdemeanor.
(Added by Stats.1980, c. 1011, § 3.)

Former § 381 was repealed by Stats.1980, c. 1011, § 2.

CALIFORNIA PAINT SNIFFING LAW

Cross References

Misdemeanor,
Defined, see § 17.
Punishment, see §§ 19, 19a.

§ 381a. Dairy products; use of inaccurate or false testing devices; punishment

Any person, or persons, whether as principals, agents, managers, or otherwise, who buy or sell dairy products, or deal in milk, cream or butter, and who buy or sell the same upon the basis of their richness or weight or the percentage of cream, or butter-fat contained therein, who use any apparatus, test bottle or other appliance, or who use the "Babcock test" or machine of like character for testing such dairy products, cream or butter, which is not accurate and correct, or which gives wrong or false percentages, or which is calculated in any way to defraud or injure the person with whom he deals, is guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned in the county jail not more than six (6) months.
(Added by Stats.1901, c. 148, § 1.)

Cross References

Babcock test, see Food and Agricultural Code § 34261 et seq.
Definitions,
Butter, see Food and Agricultural Code § 37161.
Cream, see Food and Agricultural Code § 32504.
Milk, see Food and Agricultural Code § 32511.
Milk and dairy products, misrepresentation in sale of milk, see Food and Agricultural Code §§ 32902, 34201, 35788, 36061 et seq.
Prohibited sale of ungraded milk where inspection service established, see Food and Agricultural Code § 35755.
Testing of dairy products, see Food and Agricultural Code §§ 34281 et seq., 62551 et seq.

§ 381b. Repealed by Stats.1939, c. 514, § 1

See, now, Food & Agric.C. § 34321 et seq.

§ 382. Adulteration of food, beverages, drugs, medicines, or liquors; sale of adulterated items; offense; defense by dealer

Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with the fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted; and every person who fraudulently sells, or keeps or offers for sale the same, as unadulterated or undiluted, or who, in response to an inquiry for any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, sells or offers for sale, a different article, or an article of a different character or manufacture, without first informing such purchaser of such difference, is guilty of a misdemeanor; *provided*, that no retail dealer shall be convicted under the provisions of this section if he shall prove a written guaranty of purity obtained from the person from whom he purchased such adulterated or diluted goods.
(Enacted 1872. Amended by Stats.1903, c. 254, § 1.)

HB 331
Exhibit W
1/26/83

Proposed Amendment to HB 331

1. Page 1.
Following: "(1)" on line 9
Strike: the remainder of lines 9 through 17 in their entirety.
Insert: "Any person who possesses toluene or any substance or material containing toluene, including but not limited to, glue, cement, dope, paint thinner, paint, and any combination of hydrocarbons, either alone or in combination with any substance or material, including but not limited to, paint, paint thinner, shellac thinner, and solvents, with the intent to breathe, inhale or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of toluene or any material containing toluene, or any combination of hydrocarbons, is guilty of a misdemeanor.

(2) Any person who possesses any substance or material which has toxic qualities similar to toluene, with the intent to breath, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling of the senses, or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who is under the influence of such substance or material, is guilty of a misdemeanor."
Renumber: subsequent subsection.

2. Line 18.
Following: "convicted"
Strike: "of criminal possession of a toxic substance"
Insert: "under this section"

3. Line 21.
Following: "exceed"
Strike: "$1,000"
Insert: "$500"

INTERNAL MEDICINE
F. J. ALLAIRE, M.D.
D. E. ANDERSON, M.D.
R. D. BLEVINS, M.D.
PULMONARY DISEASE
G. A. BUFFINGTON, M.D.
NEPHROLOGY
S. J. EFFERTZ, M.D.
RHEUMATOLOGY
J. D. EIDSON, M.D.
K. A. GUTER, M.D.
ONCOLOGY
W. H. LABUNETZ, M.D.
NEUROLOGY—EEG
T. J. LENZ, M.D.
W. N. MILLER, M.D.
GASTROENTEROLOGY
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GENERAL AND THORACIC
W. C. VASHAW, M.D.
GENERAL AND VASCULAR

ADMINISTRATION
W. D. TAYLOR
M. D. MISSIMER

GREAT FALLS CLINIC
P. O. BOX 5012
1220 CENTRAL AVENUE
GREAT FALLS, MONTANA 59403
PHONE (406) 454-2171

FOR H.B. 331

HB331
Exhibit X
1/26/83

January 25, 1983

Honorable Gladys Vance
Justice of the Peace
Great Falls, MT 59401

Dear Judge Vance:

Pat LaRocque asked me to dictate a letter in regards to paint sniffing and pregnancy. This has been a problem in this community amoung a select group of parents.

We have seen at least two children with significant birth anomalies presumably related to the parents chemical dependence. Unfortunately, the chemical abuse is often times a mixture of chemicals as well as poor dietary intake.

Specifically being able to diagnose a physical finding as the result of a particular chemical is not possible. I have spoken with authorities in Atlanta as well as the Rocky Mountain Poison Center and they are unaware of specific data that has ever been gleaned in regards to the related defects with paint sniffing.

I am strongly in support of a paint sniffing statute in this community and it receives my full support.

If I can be of further assistance or help, please do not hesitate to write or call.

Sincerely yours,

Jeffrey P. Hinz, M.D.

JPH/kc

HB331

THE NEWBERRY LIBRARY CENTER FOR THE HISTORY OF THE AMERICAN INDIAN

1/17/81 · Exhibit 4
1/26/83

To Whom it May Concern:

On a recent trip to Montana, in January 1981, I confronted an issue, complicated in nature, paint sniffing. I was particularly disturbed to discover that Montana law has no provisions to deal with this growing social problem, and no grounds to reprimand persons to detox programs for effective treatment and rehabilitation.

Let me explain my professional reactions to the problem as I encountered paint sni ing in Great Falls several weeks ago, and my recommendations from a cultural and social perspective on the underlying influences on the immediate problem.

I am a cultural anthropologist who has spent much time in Montana, getting to know the people on the Ft. Belknap and Ft. Peck reservations. While visiting an older couple on one of these reservations, I participated in a trip to Great Falls to attempt a "rescue" of one of their daughters currently caught up in the habit of paint sniffing. She was living, as of two weeks ago, in a house with a group of people where paint sniffing was apparently an on-going accepted behavior. Wasting away due to a lack of food, all the financial resources of this group are directed to getting high on spray paint. The situation is particularly pathetic, because most of this group are young Indians. Certainly the problem abounds among non-Ind as well, but the situation in Great Falls appears at this time to involve primaril Indian people. Some of these individuals have had bouts alcoholism previously, ar the entanglement in paint sniffing is the surface consequence of a larger problem.

Many individuals, Indian and non-Indian, have trouble achieving self satisfaction and fulfillment. This situation is particularly acute among many younger Indian people I have met in Montana. Many have abandoned education as a false promise for a wide range of reasons, from teenage pregnancy to no viable career opportunities ever really being offered to them. The incongruence many feel is wanting the good times, reflected in the media and press, but seeing no way to participate economically. Therefore, it becomes an easy way around the situation to get high, and to stay high to cover up their frustrations and their non-membership in the la American way of life. Many take the little resources they have, and get high, eve to the danger of self destruction, rather than face the overwelming frustrations (being outsiders in their own land. Many just give up on life. I am just touching on the background of many who are caught up in this habit, which is so physically destructive. I certainly can not speak for these people, rather the complexity o circumstances individual and cultural that come into interplay, in my opinion, mu be understood if this malaise is to be eliminated.

I would urge you to provide a legal framework that discourages the destructive be haviors of paint sniffing. Secondly, I recommend sending persons caught up in th habit to effective detox programs. Such treatment programs may need to be coordi ated with the alcohol and drug abuse programs on their home reservations. Certai intensive counselling is in order, and therapies may need to be discovered that r the basic problems of self satisfaction and individual fulfillment. The possibil also must be recognized that many habitual paint sniffers may already have suffer brain damage to an extent to require indefinate institutionalization. Rehabilita for this social problem is not easy or simple, but the problem must be recognized first.

Sincerely yours,

David R. Miller

FILE:

INTER-OFFICE MEMORANDUM

CITY OF GREAT FALLS, MONTANA

TO: Captain Dull DATE 24 January 1983

FROM: Midge Warrington REPLY REQUESTED ON OR BEFORE:

SUBJECT: Arrests resulting from "Paint/Glue Sniffing"

The following list compiles those incidents during 1982 where the specific use of paint or glue being sniffed resulted in contact by officers of this department and subsequent arrests. The only category checked in our files was "Disorderly Conduct", the major category where arrests for paint sniffing are recorded. There are other categories where the abuse of paint or glue could be found, including "Complaint/General; Citizen Assist; Disturbances; Assaults". However, checking physically each report in the above categories would require a great amount of time, and would in all likelihood be inaccurate in total count and unproductive, as in most cases the contribution to the offense by the abuse of paint or glue would probably not be mentioned, and in many cases, the CR card would be simply circled "No Report Required" if no arrest was made and the individual(s) were simply sent on their way.

As indicated below, the department in 1982 had 37 specific instances of abuse of paint or glue which resulted in 59 arrests.

CR#	Date	Result
03209	2-13-82	1 arrest; 1 to hospital
03903	2-22-82	1 arrest
04289	2-27-82	2 arrests
04633	3-4-82	2 arrests
05686	3-18-82	1 arrest
05991	3-21-82	3 arrests
06793	4-1-82	2 arrests
08381	4-20-82	1 arrest
08614	4-23-82	2 arrests
09215	4-30-82	2 arrests
09896	5-8-82	3 arrests
09906	5-8-82	1 arrest
10006	5-9-82	1 arrest
10713	5-17-82	3 arrest; 1 to hospital
10896	5-20-82	1 arrest-later to hospital
11061	5-22-82	1 arrest
11924	6-1-82	1 arrest
13451	6-17-82	1 arrest
14534	6-27-82	2 arrests
15010	7-1-82	1 arrest
15293	7-4-82	2 arrests
16337	7-15-82	1 arrest
19155	8-12-82	2 arres
22845	9-23-82	3 arres
23364	9-30-82	2 arres
23459	10-1-82	1 arres
23855	10-6-82	2 arres
24924	10-19-82	2 arres
25491	10-26-82	1 arres
26197	11-5-82	2 arres
26692	11-16-82	1 arres
27048	11-16-82	1 arres
27184	11-18-82	1 arres
27989	11-29-82	2 arres
28855	12-10-82	1 arres
29128	12-14-82	1 arres
30245	12-29-82	2 arres

ROLL CALL

JUDICIARY COMMITTEE

48 LEGISLATIVE SESSION, 1983

	January					Date			February					
Name	25	26	27	28	31	2/2	3	4	7	8	9	10	11	14
DAVE BROWN, Chairman	X	X	X	X	X	X	X	X	X	X	X	X	X	E
KELLY ADDY, Vice Chr.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TONI BERGENE	X	X	X	X	X	X	X	X	X	X	X	X	X	E
JAN BROWN	X	X	X	X	X	X	X	X	X	X	X	X	X	X
AUBYN CURTISS	X	X	E	E	X	X	X	X	X	X	X	X	X	X
FRITZ DAILY	X	X	X	X	X	X	X	X	X	X	X	X	X	X
PAULA DARKO	X	X	X	X	X	X	X	X	X	X	X	X	X	X
RALPH EUDAILY	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CAROL FARRIS	X	X	X	X	X	E	X	X	E	X	X	X	X	X
TOM HANNAH	X	X	X	X	E	X	X	X	X	X	X	X	X	E
DENNIS IVERSON	X	X	X	X	X	X	X	X	X	X	X	X	X	X
JAMES JENSEN	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ROLAND KENNERLY	X	X	X	A	X	X	X	X	X	X	E	X	X	X
KERRY KEYSER	X	X	X	X	X	X	X	X	X	X	X	X	X	X
JACK RAMIREZ	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TED SCHYE	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CARL SEIFERT	X	E	X	X	X	X	X	E	X	X	E	X	X	X
GARY SPAETH	X	X	X	X	X	X	X	X	X	X	X	X	X	X
DENNIS VELEBER	X	X	X	X	X	X	X	X	X	X	X	X	X	X

X = Present
A = Absent
E = Excused

VISITOR'S REGISTER

HOUSE JUDICIARY COMMITTEE

BILL House Bill 331 DATE January 26, 1983

SPONSOR Rep. Pistoria

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Gladys M Wanke	723 40 St So Great Falls	Self	✓	
Mona Jamison	Helena	CWV		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

MINUTES OF THE JUDICIARY COMMITTEE
January 27, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown in Room 224A of the Capitol. All members were present except Representative Curtiss, who was excused. Brenda Desmond, Legislative Council, was present.

HOUSE BILL 368

REPRESENTATIVE SANDS, sponsor, stated House Bill 368 will expand the scope of appeal by the state in criminal cases by allowing interlocutory appeals on controlling questions of law and allowing appeals following judgment on important questions of law. This bill was requested by the Task Force on Corrections.

REPRESENTATIVE SANDS stated he was not on the Task Force. This bill does not interfere with constitutional principles and rights. It is a modest bill providing to the state the right to have an interlocutory appeal in criminal cases. The need arises because of a conflict between two principles in criminal law. The first is double jeopardy which means if a person is acquitted for any reason that person cannot be tried again. The second is that interlocutory appeal is very limited. If an objection is made to the ruling of the trial court ordinarily that ruling cannot be appealed at the time it is made. The aggrieved party must wait until the final judgment and then appeal. The appeal must be upon the final judgment and not during the trial. This system normally works well except in criminal cases. In criminal cases the limitation on interlocutory appeals works as a disadvantage to the prosecutor. Once the case is finally decided the rule of double jeopardy comes into play and thus there is no purpose to appeal. This bill would be an equalizing process. If there is an error in the court proceedings, the defendant can appeal. This bill allows the state to appeal prospectively. It does not affect the individual case. The purpose of sub-paragraph 4 is to allow the state to excercise its purpose in criminal law. REPRESENTATIVE SANDS recommended that paragraph be eliminated from the bill because it might be unconstitutional. It would require the Supreme Court to make an advisory opinion. One body of government cannot tell the other body what to do. In the practical sense, if the prosecutor appealed, who would defend the case in front of the Supreme Court? A defendant who was acquitted would not hire an attorney to present the case. If an interlocutory appeal were available, then that would be the appropriate time to bring the issue before the Supreme Court.

The condemning would pay the cost of appeal regardless.

The amendment carried.

REPRESENTATIVE KEYSER moved DO PASS AS AMENDED. All were in favor of the motion. REPRESENTATIVE CURTISS and REPRESENTATIVE EUDAILY voted yes via proxies.

HOUSE BILL 331

It was stated the sponsor would prefer the bill be amended as the California law states. He also wants the fine reduced to $500 and thus handled in Justice Court.

REPRESENTATIVE DAILY moved the bill DO PASS. REPRESENTATIVE DAILY moved the amendments be adopted as in compliance with Montana law.

REPRESENTATIVE RAMIREZ asked what "toleune" is as, the amendment states. It was replied that is a common colorless flammable liquid substance used in fingerpolish remover, paint thinners, etc.

CHAIRMAN BROWN felt the original bill would do the same as the proposed amendments.

REPRESENTATIVE DAILY withdrew his motion to adopt the amendments as under California law. He moved the fine by changed to $500 from $1,000.

All were in favor of the motion.

REPRESENTATIVE DAILY moved DO PASS AS AMENDED, seconded by REPRESENTATIVE JENSEN.

REPRESENTATIVE ADDY asked how this would be enforced. CHAIRMAN BROWN stated there has been a problem in Great Falls with people sniffing substances at an abandoned warehouse known as the Paint Palace. Law enforcement officers cannot arrest the people. They can only refer them to hospitals or health care facilities to obtain help. In Great Falls in 1982, 37 incidents resulting in 59 arrests for other offenses also involved abuse of this type of chemical. The exhibit from the testimony was referred to.

REPRESENTATIVE ADDY asked if the bill would really solve the problem. REPRESENTATIVE KEYSER stated there is no current statute that applies to this problem.

The motion of DO PASS AS AMENDED carried. REPRESENTATIVE J. BROWN and REPRESENTATIVE EUDAILY voted yes via proxies. REPRESENTATIVE CURTISS and REPRESENTATIVE IVERSON DID NOT LEAVE votes.

HOUSE BILL 376

REPRESENTATIVE DAILY moved DO PASS, seconded by REPRESENTATIVE DARKO.

REPRESENTATIVE ADDY moved the bill be amended as was presented in testimony.

BRENDA DESMOND stated there is a problem with children that are adopted and the natural grandparents still want connections with the child. The court must decide if allowing the grandparents visitation rights is in the best interests of the child. REPRESENTATIVE HANNAH felt that the grandparents love the child and they should not be hindered by what their children do.

The committee decided to hold action on the bill.

HOUSE BILL 234

REPRESENTATIVE FARRIS moved to DO PASS, seconded by REPRESENTATIVE BERGENE.

REPRESENTATIVE SPAETH felt the bill did not do much except make the school board members feel a bit better.

All were in favor of the motion except REPRESENTATIVES JENSEN and ADDY. REPRESENTATIVES DAILY, IVERSON, CURTISS and J. BROWN voted yes via proxies.

The meeting adjourned at 11:45 a.m.

Dave Brown
DAVE BROWN, Chairman

Maureen Richardson
Maureen Richardson, Secretary

STANDING COMMITTEE REPORT

January 27, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 331

First reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE OFFENSE OF CRIMINAL POSSESSION OF A TOXIC SUBSTANCE."

Respectfully report as follows: That HOUSE Bill No. 331

BE AMENDED AS FOLLOWS:

1. Page 1, line 18.
Following: "convicted"
Strike: "of criminal possession of a toxic substance"
Insert: "under this section"

2. Page 1, line 21.
Following: "exceed"
Strike: "$1,000"
Insert: "$500"

AND AS AMENDED

DO PASS

DAVE BROWN, Chairman.

STATE PUB. CO.
Helena, Mont.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 2, 1983

The thirty-third meeting of the Senate Judiciary Committee was called to order by Vice-Chairman Bruce D. Crippen, in the temporary absence of Chairman Turnage, on March 2, 1983 at 10:10 a.m. in Room 325, State Capitol.

ROLL CALL: All members were present, except for Senator Turnage who arrived late.

CONSIDERATION OF HOUSE BILL 589: Representative Schye advised that he was sponsoring this bill at the request of the county attorney in Glasgow. HB589 was introduced because sections 46-8-113 and 46-18-232, MCA, are currently in conflict. HB589 attempts to rectify this conflict by designating which court costs a defendant is responsible for. A letter from David L. Nielsen, Valley County Attorney, was distributed to the Committee which further explains the need for this bill (see attached Exhibit "A").

There being no proponents or opponents present, and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 210: Representative Pistoria, sponsor of the bill, advised that its purpose is to deal with those people who fail to maintain liability insurance as mandated by law. Under the provisions of HB210, those persons convicted of not maintaining the mandatory insurance will have their license suspended unless they immediately give to and maintain with the division for one year, proof of financial responsibility.

PROPONENTS: Larry Majerus, representing the Motor Vehicle Division, testified in favor of the bill and advised it would require people to post proof of liability insurance or they will lose their license. He also drew the Committee's attention to the section of the bill which would require the Motor Vehicle Division to send its notice of suspending a driver's license by certified mail. He felt that this would be too expensive and suggested amending the bill to require that a notice is to be mailed with a certificate of mailing. He also suggested the Committee request a fiscal note so they could review the impact certified mailing would cause.

Charles Graveley, representing the County Treasurer's Association, testified in favor of the bill in its current form and with the amendment suggested by Larry Majerus. He urged the Committee to give the bill favorable consideration.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Mazurek was concerned with how the bill would apply to minor children using their parents car and the situation where a person borrows a vehicle which does not have insurance.

Representative Pistoria closed by stating he agreed with the removal of the certified mail requirement as it would put too much of a burden on the state.

CONSIDERATION OF HOUSE BILL 331: Representative Pistoria, sponsor, explained that this is a "paint sniffing" bill. He advised that it was drafted when some paint shops contacted him and asked if Montana had a law against sniffing paint. A letter from California and a copy of their law regarding this subject was distributed to the Committee (see attached Exhibit "B"). Testimony regarding paint sniffing and statistics were also distributed (see attached Exhibit "C"), along with a letter from a Great Falls doctor (see attached Exhibit "D"). Representative Pistoria then stated that he had been advised there is a need for an amendment for excluding University research projects from the provisions of this bill.

PROPONENTS: Larry Weinberg, representing the Montana University System, supported the bill but had discovered a potential problem it could cause to the University. He was concerned that the bill, as written, would apply to research projects. He suggested amending it to exempt these projects. A proposed amendments was then distributed to the Committee (see attached Exhibit "E").

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Halligan questioned how you alter your physical state (as referred to in the bill). He was advised that sniffing can cause organic brain damage.

Senator Crippen questioned if the County Attorney's Association or the Attorney General's Office had testified in support of the bill when it was presented in the House. He was advised that they had not but that there were many organizations who favor the bill.

Representative Pistoria closed by stating he had no objections to the exemption of the University research programs.

CONSIDERATION OF HOUSE BILL 320: Representative Hammond advised that he was sponsoring this bill at the request of the Department of Highways. Its major purpose is to remove from current law the ability of the successor in interest of the person from whom land was purchased to force land to be sold and to meet the highest bid. Currently there are law suits over the issue of who is the "successor in interest." The second purpose of the bill is to give the Department the option to sell the land by public auction or sealed bids. It also changes the value of the property for which they must hold public auction or sealed bids from $100 to $500.

PROPONENTS: James Beck, representing the Department of Highways, advised that the bill was drafted to implement the recommendations of the legislative auditor. He reviewed the sections of the bill and also the case of State v. Wood which is currently pending.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

The Committee discussed and questioned Mr. Beck extensively regarding the ability of the former owner to acquire land and the determination of the successor in interest. Sealed bids and public auctions were also discussed. The Trout Creek case was brought up and Mr. Beck stated that he didn't feel that this bill would have an affect on that property.

There being no further discussion, the hearing was closed.

The Chairman announced that the Committee was ready to consider executive action on several bills previously heard.

ACTION ON HOUSE BILL 589: The Committee reviewed section 25-10-201, MCA, as these costs would be allowed under the provisions of this bill. Senator Halligan advised that many people want to take their criminal cases to trial for the principle of the matter. Senator Mazurek moved HB589 BE CONCURRED IN. This motion carried unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 331: The Committee reviewed the amendment proposed by Larry Weinberg of the Montana University System. It was then referred to counsel for research.

ACTION ON HOUSE BILL 210: The mandatory liability insurance law was discussed and some Committee members felt HB210 was only an additional harassment to people. Senator Mazurek stated that if this bill were enacted people would not only drive without insurance, but they would also drive without a license. Presently there is a $250 fine for driving while not carrying insurance. Senator Halligan suggested increasing this fine. Senator Shaw moved to TABLE HB210 until further consideration. This motion carried unanimously.

ACTION ON HOUSE BILL 320: The Committee felt they should not support this bill if they believed in their actions when passing SB155. Senator Berg moved to TABLE HB320. Senator Crippen felt this was a wise motion in case the Committee wanted to amend it later. The motion to TABLE passed unanimously.

ACTION ON HOUSE BILL 119: Amendments were distributed and reviewed by the Committee. Under the provisions of the bill with the amendments, for the purposes of determining support, the court may consider the level of support received by children on Public Assistance. The law would then be permissive. Senator

State of California
Department of Justice
George Deukmejian
(PRONOUNCED DUKE-MAY-GIN)
Attorney General

555 CAPITOL MALL, SUITE 350
SACRAMENTO 95814
(916) 445-9555

EXHIBIT "B"
March 2, 1983

Rec'd - Mon - Dec. 20th, 1982
for HB-331

Mr. Paul Pistoria
State Representative
Montana State House of Representatives
2421 Central Ave.
Great Falls, Montana 59401

December 17, 1982

Dear Mr. Pistoria:

This is in response to your recent letter requesting information.

Enclosed is a copy of penal Code section 381 which appears to be the statute you request.

We hope to have been of assistance to you in this matter.

Very truly yours,

George Deukmejian
Attorney General

Jon P. Lippsmeyer
Public Inquiry Unit

JPL:pfs
Enclosure

components as beads, tiles, tiffany glass, ceramics, clay, or other craft-related components.
(Added by Stats.1979, c. 1165, § 1. Amended by Stats.1980, c. 1011, § 1.)

Former § 381 was repealed by Stats.1978, c. 438, § 1.

§ 381. Toluene and substances with similar toxic qualities; possession and under the influence

(a) Any person who possesses toluene or any substance or material containing toluene, including, but not limited to, glue, cement, dope, paint thinner, paint and any combination of hydrocarbons, either alone or in combination with any substance or material including but not limited to paint, paint thinner, shellac thinner, and solvents, with the intent to breathe, inhale or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of toluene or any material containing toluene, or any combination of hydrocarbons is guilty of a misdemeanor.

(b) Any person who possesses any substance or material, which the State Department of Health Services has determined by regulations adopted pursuant to the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) has toxic qualities similar to toluene, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who is under the influence of such substance or material is guilty of a misdemeanor.
(Added by Stats.1980, c. 1011, § 3.)

Former § 381 was repealed by Stats.1980, c. 1011, § 2.

Cross References

Misdemeanor,
Defined, see § 17.
Punishment, see §§ 19, 19a.

§ 381a. Dairy products; use of inaccurate or false testing devices; punishment

Any person, or persons, whether as principals, agents, managers, or otherwise, who buy or sell dairy products, or deal in milk, cream or butter, and who buy or sell the same upon the basis of their richness or weight or the percentage of cream, or butter-fat contained therein, who use any apparatus, test bottle or other appliance, or who use the "Babcock test" or machine of like character for testing such dairy products, cream or butter, which is not accurate and correct, or which gives wrong or false percentages, or which is calculated in any way to defraud or injure the person with whom he deals, is guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned in the county jail not more than six (6) months.
(Added by Stats.1901, c. 148, § 1.)

Cross References

Babcock test, see Food and Agricultural Code § 34261 et seq.
Definitions,
Butter, see Food and Agricultural Code § 37161.
Cream, see Food and Agricultural Code § 32504.
Milk, see Food and Agricultural Code § 32511.
Milk and dairy products, misrepresentation in sale of milk, see Food and Agricultural Code §§ 32902, 34201, 35788, 36061 et seq.
Prohibited sale of ungraded milk where inspection service established, see Food and Agricultural Code § 35755.
Testing of dairy products, see Food and Agricultural Code §§ 34221 et seq., 62551 et seq.

§ 381b. Repealed by Stats.1939, c. 514, § 1

See, now, Food & Agric.C. § 34321 et seq.

§ 382. Adulteration of food, beverages, drugs, medicines, or liquors; sale of adulterated items; offense; defense by dealer

Every person who adulterates or dilutes any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, or any article useful in compounding them, with the fraudulent intent to offer the same, or cause or permit it to be offered for sale as unadulterated or undiluted; and every person who fraudulently sells, or keeps or offers for sale the same, as unadulterated or undiluted, or who, in response to an inquiry for any article of food, drink, drug, medicine, spirituous or malt liquor, or wine, sells or offers for sale, a different article, or an article of a different character or manufacture, without first informing such purchaser of such difference, is guilty of a misdemeanor; *provided*, that no retail dealer shall be convicted under the provisions of this section if he shall prove a written guaranty of purity obtained from the person from whom he purchased such adulterated or diluted goods.
(Enacted 1872. Amended by Stats.1903, c. 254, § 1.

EXHIBIT "C"
March 2, 1983

FOR H.B. 533 Paint Sniffing Bill.

THE NEWBERRY LIBRARY CENTER FOR THE HISTORY OF THE AMERICAN INDIAN

1/17/81
Presented by Justice of Peace Gladys Vance. Gt. Falls

To Whom it May Concern:

On a recent trip to Montana, in January 1981, I confronted an issue, complicated in nature, paint sniffing. I was particularly disturbed to discover that Montana law has no provisions to deal with this growing social problem, and no grounds to reprimand persons to detox programs for effective treatment and rehabilitation.

Let me explain my professional reactions to the problem as I encountered paint sniffing in Great Falls several weeks ago, and my recommendations from a cultural and social perspective on the underlying influences on the immediate problem.

I am a cultural anthropologist who has spent much time in Montana, getting to know the people on the Ft. Belknap and Ft. Peck reservations. While visiting an older couple on one of these reservations, I participated in a trip to Great Falls to attempt a "rescue" of one of their daughters currently caught up in the habit of paint sniffing. She was living, as of two weeks ago, in a house with a group of people where paint sniffing was apparently an on-going accepted behavior. Wasting away due to a lack of food, all the financial resources of this group are directed to getting high on spray paint. The situation is particularly pathetic, because most of this group are young Indians. Certainly the problem abounds among non-Indian as well, but the situation in Great Falls appears at this time to involve primarily Indian people. Some of these individuals have had bouts alcoholism previously, and the entanglement in paint sniffing is the surface consequence of a larger problem.

Many individuals, Indian and non-Indian, have trouble achieving self satisfaction and fulfillment. This situation is particularly acute among many younger Indian people I have met in Montana. Many have abandoned education as a false promise for a wide range of reasons, from teenage pregnancy to no viable career opportunities ever really being offered to them. The incongruence many feel is wanting the good times, reflected in the media and press, but seeing no way to participate economically. Therefore, it becomes an easy way around the situation to get high, and to stay high to cover up their frustrations and their non-membership in the large American way of life. Many take the little resources they have, and get high, even to the danger of self destruction, rather than face the overwelming frustrations of being outsiders in their own land. Many just give up on life. I am just touching on the background of many who are caught up in this habit, which is so physically destructive. I certainly can not speak for these people, rather the complexity of circumstances individual and cultural that come into interplay, in my opinion, must be understood if this malaise is to be eliminated.

I would urge you to provide a legal framework that discourages the destructive behaviors of paint sniffing. Secondly, I recommend sending persons caught up in this habit to effective detox programs. Such treatment programs may need to be coordinated with the alcohol and drug abuse programs on their home reservations. Certainly, intensive counselling is in order, and therapies may need to be discovered that reach the basic problems of self satisfaction and individual fulfillment. The possibility also must be recognized that many habitual paint sniffers may already have suffered brain damage to an extent to require indefinate institutionalization. Rehabilitation for this social problem is not easy or simple, but the problem must be recognized first.

Sincerely yours,

David R. Miller

Miller - Iroquois Project - 719

The Newberry Library 60 West Walton Street, Chicago, Illinois 60610 Telephone 312: 943-9090

FILE:

INTER-OFFICE MEMORANDUM

CITY OF GREAT FALLS, MONTANA

"C" 3-2-83

TO: Captain Dull DATE 24 January 1983

FROM: Midge Warrington REPLY REQUESTED ON OR BEFORE:

SUBJECT: Arrests resulting from "Paint/Glue Sniffing"

The following list compiles those incidents during 1982 where the specific use of paint or glue being sniffed resulted in contact by officers of this department and subsequent arrests. The only category checked in our files was "Disorderly Conduct", the major category where arrests for paint sniffing are recorded. There are other categories where the abuse of paint or glue could be found, including "Complaint/General; Citizen Assist; Disturbances; Assaults". However, checking physically each report in the above categories would require a great amount of time, and would in all likelihood be inaccurate in total count and unproductive, as in most cases the contribution to the offense by the abuse of paint or glue would probably not be mentioned, and in many cases, the CR card would be simply circled "No Report Required" if no arrest was made and the individual(s) were simply sent on their way.

As indicated below, the department in 1982 had 37 specific instances of abuse of paint or glue which resulted in 59 arrests.

CR#	Date	Result
03209	2-13-82	1 arrest; 1 to hospital
03903	2-22-82	1 arrest
04289	2-27-82	2 arrests
04633	3-4-82	2 arrests
05686	3-18-82	1 arrest
05991	3-21-82	3 arrests
06793	4-1-82	2 arrests
08381	4-20-82	1 arrest
08614	4-23-82	2 arrests
09215	4-30-82	2 arrests
09896	5-8-82	3 arrests
09906	5-8-82	1 arrest
10006	5-9-82	1 arrest
10713	5-17-82	3 arrest; 1 to hospital
10896	5-20-82	1 arrest-later to hospital
11061	5-22-82	1 arrest
11924	6-1-82	1 arrest
13451	6-17-82	1 arrest
14534	6-27-82	2 arrests
15010	7-1-82	1 arrest
15293	7-4-82	2 arrests
16337	7-15-82	1 arrest
19155	8-12-82	2 arrests
22845	9-23-82	3 arrests
23364	9-30-82	2 arrests
23459	10-1-82	1 arrest
23855	10-6-82	2 arrests
24924	10-19-82	2 arrests
25491	10-26-82	1 arrest
26197	11-5-82	2 arrests
26692	11-16-82	1 arrest
27048	11-16-82	1 arrest
27184	11-18-82	1 arrest
27989	11-29-82	2 arrests
28855	12-10-82	1 arrest
29128	12-14-82	1 arrest
30245	12-29-82	2 arrests

EXHIBIT "D"
March 2, 1983

FOR H.B. 331

GREAT FALLS CLINIC

P. O. BOX 5012
1220 CENTRAL AVENUE
GREAT FALLS, MONTANA 59403
PHONE (406) 454-2171

INTERNAL MEDICINE
F. J. ALLAIRE, M.D.
D. E. ANDERSON, M.D.
R. D. BLEVINS, M.D.
PULMONARY DISEASE
G. A. BUFFINGTON, M.D.
NEPHROLOGY
S. J. EFFERTZ, M.D.
RHEUMATOLOGY
J. D. EIDSON, M.D.
K. A. GUTER, M.D.
ONCOLOGY
W. H. LABUNETZ, M.D.
NEUROLOGY—EEG
T. J. LENZ, M.D.
W. N. MILLER, M.D.
GASTROENTEROLOGY
W. N. PERSON, M.D.
T. W. ROSENBAUM, M.D.
NEPHROLOGY
J. D. WATSON, M.D.
CARDIOLOGY

OBSTETRICS AND GYNECOLOGY
R. E. ASMUSSEN, M.D.
P. L. BURLEIGH, M.D.
R. L. MCCLURE, M.D.
G. K. PHILLIPS, M.D.

PEDIATRICS
J. W. BRINKLEY, M.D.
J. A. CURTIS, M.D.
J. M. EICHNER, M.D.
J. R. HALSETH, M.D.
T. E. HARPER, M.D.
J. P. HINZ, M.D.

PSYCHIATRY
D. E. ENGSTROM, M.D.

PSYCHOLOGY
E. E. SHUBAT, PH. D.

SURGERY
W. P. HORST, M.D.
UROLOGY
R. E. LAURITZEN, M.D.
GENERAL AND VASCULAR
J. E. MUNGAS, M.D.
VASCULAR SURGERY
L. M. TAYLOR, M.D.
GENERAL AND THORACIC
W. C. VASHAW, M.D.
GENERAL AND VASCULAR

ADMINISTRATION
W. D. TAYLOR
M. D. MISSIMER

January 25, 1983

Honorable Gladys Vance
Justice of the Peace
Great Falls, MT 59401

Dear Judge Vance:

Pat LaRocque asked me to dictate a letter in regards to paint sniffing and pregnancy. This has been a problem in this community amoung a select group of parents.

We have seen at least two children with significant birth anomalies presumably related to the parents chemical dependence. Unfortunately, the chemical abuse is often times a mixture of chemicals as well as poor dietary intake.

Specifically being able to diagnose a physical finding as the result of a particular chemical is not possible. I have spoken with authorities in Atlanta as well as the Rocky Mountain Poison Center and they are unaware of specific data that has ever been gleaned in regards to the related defects with paint sniffing.

I am strongly in support of a paint sniffing statute in this community and it receives my full support.

If I can be of further assistance or help, please do not hesitate to write or call.

Sincerely yours,

Jeffrey P. Hinz, M.D.

JPH/kc

EXHIBIT "E"
March 2, 1983

Amend HB 331

1. Page 1, line 18
   Following: line 17
   Insert: "(2) The provisions of this section do not apply to a bonafide institution of higher education conducting research with human volunteers pursuant to guidelines promulgated by the federal department of health and human services, or their equivalent"

2. Page 2, line 18
   Strike: "(2)"
   Insert: "(3)"

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 3-2-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

48th LEGISLATIVE SESSION

COMMITTEE ON Senate Judiciary

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
251	1-25-83	2-7-83	2-7-83					2-7-83	
257	1-31-83	3-19-83	3-19-83				3-19-83		
265	2-2-83	3-4-83	3-4-83				3-4-83		
272	2-2-83	3-10-83	3-10-83				3-10-83		
307	2-7-83	2-9-83	2-10-83					2-10-83	
320	2-14-83	3-2-83	TABLED						
323	2-2-83	2-11-83	2-17-83						2-17-83
327	2-7-83	2-9-83	2-17-83						2-17-83
331	2-2-83	3-2-83	3-19-83					3-19-83	
350	2-7-83	2-9-83	2-9-83				2-9-83		
355	2-10-83	3-1-83	3-1-83				3-1-83		
357	3-3-83	3-17-83	3-24-83					3-24-83	
362	2-8-83	3-1-83	3-24-83					3-24-83	
369	2-3-83	2-10-83	2-10-83				2-10-83		
370	2-7-83	3-1-83	3-19-83					3-19-83	
376	2-11-83	3-4-83	3-19-83					3-19-83	

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 16, 1983

The forty-fourth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on March 16, 1983 at 10:00 a.m. in Room 325, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 741: Representative Addy, District 62, stated that this bill was requested by the House Judiciary Committee.

Alec Hansen, representing the League of Cities and Towns, stated that they support this bill. Montana city attorneys would like to be included in the training programs offered by the Attorney General's Office. Mr. Hansen stated that city attorneys should have this training available for good understanding of the laws and on how to prosecute in the courts. He added that it received very strong support on the floor of the House.

There being no further proponents or opponents on this bill the hearing was closed on HB 741.

CONSIDERATION OF HOUSE BILL 774: Representative Addy, District 62, stated that there are two primary benefits to be gained from this bill: First, if attorneys feel a hearing is a serious matter, they would be able to not just look for anyone who is a shorthand reporter but a person who has been certified and has a level of competence. Secondly, the bill provides reciprocity - that is, someone who is certified as a shorthand reporter would be able to go to another state and automatically become certified there. Anyone who has worked as a regular shorthand reporter would be grandfathered in.

PROPONENTS: Jerome Anderson, representing the Montana Shorthand Reporter's Association, stated that he did want to address the fiscal note. It does indicate some fiscal impact.

Julie M. Lake, Secretary-Treasurer of the Montana Shorthand Reporters' Association, stated that the examination required by section 6 (3) requires that to pass you must complete all academic courses satisfactorily and pass at least three speed tests at 225 words per minute with 98 percent accuracy. She stated that Section 6(3) would not require reporters have a level of skill necessary to obtain an NSRA Certificate of Merit, but that they are able to meet the minimum requirements of graduation and the NSRA RPR test. This is for the public's protection. Ms Lake submitted her testimony in writing (Exhibit No. 1).

Mike Abley, Supreme Court Administrator, said in regard to the fiscal note on the bill, that it appears now there will be no cost to the state.

Senator Mazurek said he wanted the Committee to discuss the "grandmother" provision. His understanding was that the reporters are asking for something that elevates them above the normal reporter.

A motion was made by Senator Crippen that the bill be amended on Page 5, lines 3 through 11, by striking subsection (5) in its entirely. Upon roll call vote the motion carried with Senator Turnage voting no.

A motion was then made by Senator Crippen that House Bill 774 As Amended Be Concurred In. Upon a 7 to 3 roll call vote, the motion carried.

A motion was then made by Senator Crippen that House Bill 331 be Taken from the Table. The motion carried unanimously.

A motion was then made by Senator Crippen that House Bill 376 be TAKEN FROM THE TABLE. The motion carried unanimously.

FURTHER CONSIDERATION OF HOUSE BILL 825: Ward Shanahan, representing Northern Tier Pipeline, said that there should not be a substantive change in the law of eminent domain. Therefore, if the bill can be amended on Page 4 by striking line 13 and the attached amendment for page 5, line 2, of the bill can be inserted, Northern Tier Pipeline Company can fully support this legislation, because it will then give the landowners great protection and provide for a more orderly procedure before the court. He submitted written testimony and amendments (Exhibit 5)

Patrick L. Smith, representing Northern Plains Resource Council, said that in the existing law there is no cut-off date for pre-trial legal activity. He sees the cut off period as a weakening of the existing law.

A motion was made by Senator Berg that House Bill 825 be amended on page 4, line 4 by inserting the language recommended by Ward Shanahan and by striking page 4, line 13. The motion carried unanimously.

It was decided that Mr. Shanahan and Mr. Smith should caucus together and come up with further amendments acceptable to both of them. Tomorrow the Committee will vote on the bill.

DISPOSITION OF HOUSE BILL 808: A motion was made by Senator Berg to Table House Bill 808. The motion carried unanimously.

ADJOURNMENT: Meeting was adjourned at 11:50 a.m.

SENATOR JEAN TURNAGE, Chairman

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 3-16-83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 19, 1983

The forty-seventh meeting of the Senate Judiciary Committee was called to order by Vice-Chairman Crippen in the absence of Chairman Turnage at 9:05 a.m., on March 19, 1983, in Room 325, State Capitol.

ROLL CALL: All members were present with the exception of Senator Berg.

CONSIDERATION OF HOUSE BILL 215: Representative Ramirez, sponsor of the bill, testified that this bill originated with the Montana Banker's Association and the Montana State Bar Legislative Committee. Representative Ramirez explained that the original Act was drafted in 1931 and adopted by Montana in 1959. It is Representative Ramirez's opinion that Montana is behind in adopting this Act as it is proposed in HB215. Representative Ramirez stated that the objective of HB215 is to determine the actual intent of a person who sets up the trust.

PROPONENTS: Mr. Howard E. Vralsted, of the Northwest Union Trust Company in Billings and appearing on behalf of Montana Banker's Association Trust Division, testified that he has reviewed similar legislation of other states, and it is his conclusion that Montana should adopt the revised Uniform Principle and Income Act. Mr. Vralsted testified that this legislation is intended to treat all beneficiaries fairly. Mr. Vralsted informed the Committee that the primary changes between the 1931 Act and HB215 are:

1. The 1931 Act does not allocate royalties received from minerals. HB215 has a provision for allocation of this income.

2. HB215 provides for depreciation, where the 1931 Act failed to contain this provision.

3. HB215 provides for allocation of trustee's fees, court costs, and attorney's fees.

4. In 1959, when the 1931 Act was adopted, that Act did not apply to trusts which were already established.

Mr. Vralsted informed the Committee that HB215 also changed the definition of "inventory value" and "trustee." Mr. Vralsted urged the Committee to support HB215.

Mr. David L. Johnson, Chairman of the Legislative Committee, Tax and Probate Section, State Bar of Montana, testified that Montana has not had much litigation construing the 1959 Act. Because of this, it is difficult to know exactly what the governing rules are. Mr. Johnson also testified that HB215 will not have a negative impact on tax receipts in Montana. He urged the Committee to support HB215.

under a contract for deed. The purchaser now is not required to be notified of certain things which affect the property. Under HB812, holders of any purchasing interest in the property would be notified of all legal actions taken on the property.

PROPONENTS: Mr. Greg Groepper of the Montana Department of Revenue, submitted written testimony (see attached Exhibit "E") and stated that when a notice is served on the Clerk and Recorder, a Realty Transfer Certificate should also be completed to notify the Assessor's Office.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 467: Senator Galt moved that HB467 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL ~~628~~ 618: Senator Turnage moved that HB618 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 678: Senator Turnage moved that HB678 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 438: Senator Turnage moved that HB438 BE TABLED. This motion carried with Senator Halligan voting in opposition.

ACTION ON HOUSE BILL 705: Senator Turnage moved that Steve Brown's proposed amendments BE ADOPTED. This motion carried unanimously. Senator Turnage then made a motion that HB705 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 215: Senator Mazurek made a motion that HB215 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 855: Senator Mazurek moved that the amendments proposed by David L. Johnson BE ADOPTED. This motion carried unanimously. Senator Mazurek moved that HB855 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 257: Senator Mazurek moved that HB 257 and the Statement of Intent BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 331: Senator Galt moved that the first set of amendments to HB331 (see attached Exhibit F) BE ADOPTED. This motion carried unanimously. Senator Turnage moved that HB331 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

Exhibit "F"
March 19, 1983
HB331

AMENDMENTS TO HB 331

1. Page 1.
Following: line 21
Insert: "(3) The youth court has jurisdiction of any violation of subsection (1) by a person under 18 years of age."

Exhibit "G"
March 19, 1983
HB331

Amend HB 331

1. Page 1, line 18
   Following: line 17
   Insert: "(2) The provisions of this section do not apply to a bonafide institution of higher education conducting research with human volunteers pursuant to guidelines promulgated by the federal department of health and human services, or their equivalent"

2. Page 2, line 18
   Strike: "(2)"
   Insert: "(3)"

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 031983

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)			✓
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

STANDING COMMITTEE REPORT

March 19, 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 331
Pistoria (Turnage)

Respectfully report as follows: That House Bill No. 331
be amended as follows:

1. Page 1.
Following: line 17
Insert: "(2) The provisions of subsection (1) do not apply to a bona fide institution of higher education conducting research with human volunteers pursuant to guidelines adopted by the institution or any federal or state agency."
Renumber: subsequent subsection.

2. Page 1.
Following: line 21
Insert: "(4) The youth court has jurisdiction of any violation of subsection (1) by a person under 18 years of age."

~~DO PASS~~
And, as so amended,
BE CONCURRED IN

JEAN A. TURNAGE Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 331

INTRODUCED BY PISTORIA

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH THE OFFENSE OF CRIMINAL POSSESSION OF A TOXIC SUBSTANCE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Criminal possession of toxic substances -- penalty. (1) A person commits the offense of criminal possession of a toxic substance if he inhales or ingests or possesses with the purpose to inhale or ingest, for the purpose of altering his mental or physical state, any substance with toxic effects that is not manufactured for human consumption or inhalation, including but not limited to glue, fingernail polish, paint and paint thinners, petroleum products, aerosol propellants, and chemical solvents.

(2) THE PROVISIONS OF SUBSECTION (1) DO NOT APPLY TO A BONA FIDE INSTITUTION OF HIGHER EDUCATION CONDUCTING RESEARCH WITH HUMAN VOLUNTEERS PURSUANT TO GUIDELINES ADOPTED BY THE INSTITUTION OR ANY FEDERAL OR STATE AGENCY.

~~(2)~~(3) A person convicted ~~of criminal possession of a toxic substance~~ UNDER THIS SECTION shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed ~~$1,000~~ $500, or both.

(4) THE YOUTH COURT HAS JURISDICTION OF ANY VIOLATION OF SUBSECTION (1) BY A PERSON UNDER 18 YEARS OF AGE.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 45, chapter 9, part 1, and the provisions of Title 45 apply to section 1.

-End-

REFERENCE BILL